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8 Attorneys for Defendants  
9 LESLIE A. CABEZAS and MANUEL E. CABEZAS,  
10 dba ANANDA CENTER

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12  
13 UNITED STATES DISTRICT COURT  
14 SOUTHERN DISTRICT OF CALIFORNIA

15 IHHR HOSPITALITY PRIVATE  
16 LIMITED,

17 Plaintiff,

18 v.

19 LESLIE A. CABEZAS and  
20 MANUEL E. CABEZAS,  
21 dba ANANDA CENTER,

22 Defendants.

23 Case No. 08 CV 0540 LAB (AJB)

24 **DEFENDANTS LESLIE A.  
25 CABEZAS and MANUEL E.  
26 CABEZAS, dba ANANDA  
27 CENTER's ANSWER TO  
28 PLAINTIFF'S COMPLAINT;  
PROOF OF SERVICE**

29 COMPLAINT filed: March 24, 2008

30  
31 **ANSWER**

32 For their ANSWER to the Plaintiff's initial COMPLAINT, defendants LESLIE A.  
33 CABEZAS and MANUEL E. CABEZAS, dba ANANDA CENTER admit, deny and aver  
34 as follows:

35  
36 **PARTIES**

37 1. In response to Paragraph 1 of the of the Complaint, Defendants lack  
38 knowledge or information sufficient to form a belief as to the truth of the  
39 allegations in Paragraph 1 of the Complaint, and accordingly deny such  
40 allegations.

41  
42 DEFENDANTS LESLIE A. CABEZAS AND MANUEL E. CABEZAS,  
43 dba ANANDA CENTER's ANSWER TO PLAINTIFF'S COMPLAINT

2. In response to Paragraph 2 of the Complaint, Defendants admit that Defendants CABEZAS are California citizens doing business as Ananda Center at a principal place of business at 945 Hornblend Street, Suite C, San Diego, California 92109, but deny each and every other allegation in Paragraph 2 of the Complaint.

## **JURISDICTION AND VENUE**

3. In response to Paragraph 3 of the Complaint, the allegations constitute conclusions of law to which no response is required. To the extent a response is required, the allegations are denied.
4. In response to Paragraph 4 of the Complaint, the allegations constitute conclusions of law to which no response is required. To the extent a response is required, the allegations are denied.
5. Defendants deny the allegations of Paragraph 5 of the Complaint.
6. Defendants deny the allegations of Paragraph 6 of the Complaint.

## IHHR'S PURPORTEDLY FAMOUS ANANDA TRADEMARK

7. Defendants incorporate herein each and every response of their set forth in paragraphs 1-6 above.
8. In response to paragraph 7 of the Complaint, Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 7 of the Complaint, and accordingly deny such allegations.
9. In response to paragraph 8 of the Complaint, Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 8 of the Complaint, and accordingly deny such allegations.
10. In response to paragraph 9 of the Complaint, Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 9 of the Complaint, and accordingly deny such allegations.

1 11. In response to paragraph 10 of the Complaint, Defendants lack knowledge  
 2 or information sufficient to form a belief as to the truth of the allegations  
 3 in Paragraph 10 of the Complaint, and accordingly deny such allegations.  
 4 12. In response to paragraph 11 of the Complaint, Defendants lack knowledge  
 5 or information sufficient to form a belief as to the truth of the allegations  
 6 in Paragraph 11 of the Complaint, and accordingly deny such allegations.

7 **ANANDA CENTER'S PURPORTEDLY WRONGFUL**  
 8 **ADOPTION AND USE OF THE ANANDA MARK**

9 13. Defendants incorporate herein each and every response of their set forth in  
 10 paragraphs 1-12 above.  
 11 14. Defendants deny entirely the allegations of Paragraph 12 of the  
 12 Complaint.  
 13 15. Defendants admit that Plaintiff has not authorized, licensed or otherwise  
 14 permitted use of the ANANDA mark, but deny that any authorization,  
 15 license or other permitted use was necessary, applicable or appropriate, and  
 16 deny that they have done anything to confuse the ANANDA mark as  
 17 alleged. Accordingly, Defendants deny the remaining allegations of  
 18 Paragraph 13 of the Complaint.  
 19 16. Defendants deny entirely the allegations of Paragraph 14 of the Complaint.  
 20 17. Defendants deny entirely the allegations of Paragraph 15 of the Complaint.  
 21 18. In response to Paragraph 16 of the Complaint, the allegations constitute  
 22 conclusions of law to which no response is required. To the extent a  
 23 response is required, the allegations of Paragraph 16 are denied.

24 **ANANDA CENTER'S PURPORTED USE OF THE**  
 25 **ANANDA MARK DILUTES THE DISTINCTIVENESS**  
 26 **OF THE ANANDA NAME AND MAKES CONFUSION LIKELY**

27 19. Defendants incorporate herein each and every response of theirs set forth  
 28 in paragraphs 1-18 above.

1 20. In response to Paragraph 17 of the Complaint, the allegations constitute  
2 conclusions of law to which no response is required. To the extent a  
3 response is required, the allegations of Paragraph 17 are entirely denied.  
4 21. In response to Paragraph 18 of the Complaint, the allegations constitute  
5 conclusions of law to which no response is required. To the extent a  
6 response is required, the allegations of Paragraph 18 are entirely denied.  
7 22. In response to Paragraph 19 of the Complaint, the allegations constitute  
8 conclusions of law to which no response is required. To the extent a  
9 response is required, the allegations of Paragraph 19 are entirely denied.

10 **COUNT I (FOR FEDERAL TRADEMARK INFRINGEMENT)**

11 23. Defendants incorporate herein each and every response of theirs set forth  
12 in paragraphs 1-22 above.  
13 24. In response to Paragraph 21 of the Complaint, the allegations constitute  
14 conclusions of law to which no response is required. To the extent a  
15 response is required, the allegations of Paragraph 21 are entirely denied.  
16 25. In response to Paragraph 22 of the Complaint, the allegations constitute  
17 conclusions of law to which no response is required. To the extent a  
18 response is required, the allegations of Paragraph 22 are entirely denied.  
19 26. Defendants deny entirely the allegations of Paragraph 23 of the Complaint.

20 **COUNT II (FOR FEDERAL UNFAIR COMPETITION)**

21 27. Defendants incorporate herein each and every response of theirs set forth  
22 in paragraphs 1-26 above.  
23 28. In response to Paragraph 25 of the Complaint, the allegations constitute  
24 conclusions of law to which no response is required. To the extent a  
25 response is required, the allegations of Paragraph 25 are entirely denied.  
26 29. Defendants deny entirely the allegations of Paragraph 26 of the Complaint.

**COUNT III (FOR FEDERAL TRADEMARK DILUTION)**

30. Defendants incorporate herein each and every response of theirs set forth in paragraphs 1-29 above.

31. Defendants deny entirely the allegations of Paragraph 28 of the Complaint.

32. In response to Paragraph 29 of the Complaint, the allegations constitute conclusions of law to which no response is required. To the extent a response is required, the allegations of Paragraph 29 are entirely denied.

33. Defendants deny entirely the allegations of Paragraph 30 of the Complaint.

**COUNT IV (ANTICYBERSQUATTING CONSUMER PROTECTION ACT)**

34. Defendants incorporate herein each and every response of theirs set forth in paragraphs 1-33 above.

35. Defendants deny entirely the allegations of Paragraph 32 of the Complaint.

36. Defendants deny entirely the allegations of Paragraph 33 of the Complaint.

37. In response to Paragraph 34 of the Complaint, the allegations constitute conclusions of law to which no response is required. To the extent a response is required, the allegations of Paragraph 34 are entirely denied.

38. In response to Paragraph 35 of the Complaint, the allegations constitute conclusions of law to which no response is required. To the extent a response is required, the allegations of Paragraph 35 are entirely denied.

39. Defendants deny entirely the allegations of Paragraph 36 of the Complaint.

## COUNT V (UNFAIR COMPETITION)

## AND DECEPTIVE TRADE PRACTICES)

40. Defendants incorporate herein each and every response of theirs set forth in paragraphs 1-39 above.

41. Defendants deny entirely the allegations of Paragraph 38 of the Complaint.

42. Defendants deny entirely the allegations of Paragraph 39 of the Complaint.

**DEFENDANTS LESLIE A. CABEZAS AND MANUEL E. CABEZAS,  
dba ANANDA CENTER's ANSWER TO PLAINTIFF'S COMPLAINT**

## **COUNT VI (MISAPPROPRIATION)**

43. Defendants incorporate herein each and every response of theirs set forth in paragraphs 1-42 above.

44. Defendants deny entirely the allegations of Paragraph 41 of the Complaint.

45. Defendants deny entirely the allegations of Paragraph 42 of the Complaint.

46. Defendants deny entirely the allegations of Paragraph 43 of the Complaint.

## **COUNT VII (ACCOUNTING)**

47. Defendants incorporate herein each and every response of theirs set forth in paragraphs 1-46 above.

48. In response to Paragraph 45 of the Complaint, the allegations constitute conclusions of law to which no response is required. To the extent a response is required, the allegations of Paragraph 45 are entirely denied.

## **PRAAYER FOR RELIEF**

49. Defendants deny that Plaintiff is entitled to any of the relief prayed for in Paragraphs A through K (pages 9 through 11) of its Complaint.

Defendants, on the other hand, upon prevailing in this action, will be

entitled to the payment by Plaintiff of all of Defendants' costs and

attorneys' fees (pursuant to 17 U.S.C. Section 505 and pursuant to Lanham Act Section 1117) they will have incurred in connection with this action, and hereby pray for such relief and such other relief as the Court may grant in this action.

## **AFFIRMATIVE DEFENSES**

As affirmative defenses to allegations contained in Plaintiff's Complaint, Defendants allege as follows:

## **FIRST AFFIRMATIVE DEFENSE**

### (Failure To State A Claim)

50. The Complaint, and all claims for relief contained therein, fail to state a claim upon which relief can be granted.

**DEFENDANTS LESLIE A. CABEZAS AND MANUEL E. CABEZAS,  
dba ANANDA CENTER's ANSWER TO PLAINTIFF'S COMPLAINT**

## SECOND AFFIRMATIVE DEFENSE

### (Pre-Existing Common Law Rights by Defendants)

51. Plaintiff's Complaint and all of its claims for relief contained therein, are barred by Defendants' preexisting common law rights, to wit, Defendants' continuous prior use of the name Ananda Center pursuant to 15 USCA Section 1115(b), 15 USCA Section 1057(c) and Lanham Act Section 7(c).

### THIRD AFFIRMATIVE DEFENSE

(Limited Area Defense)

52. Plaintiff's Complaint and all of its claims for relief contained therein, are barred by Defendants' adoption and continuous use of the name Ananda Center prior to Plaintiff's registration of its mark and without knowledge of the registrant's use pursuant to 15 USCA Section 1115(b)(5).

#### **FOURTH AFFIRMATIVE DEFENSE**

### (Estoppel)

53. Upon information and belief, Plaintiff's Complaint and all of its claims for relief contained therein, are barred by the doctrine of estoppel.

## **FIFTH AFFIRMATIVE DEFENSE**

### (Laches)

54. Upon information and belief, Plaintiff's Complaint and all of its claims for relief contained therein, are barred by the doctrine of laches.

## SIXTH AFFIRMATIVE DEFENSE

### (Unclean Hands)

55. Upon information and belief, Plaintiff's Complaint and all of its claims for relief contained therein, are barred by the doctrine of unclean hands in that the allegations made in the Complaint lack any merit whatsoever.

## **SEVENTH AFFIRMATIVE DEFENSE**

### (Lack of Intent)

56. Defendants, at all times, believed their conduct to be fair and lawful and therefore done without any specific intent of alleged infringement, unfair competition, dilution, cybersquatting or deception.

57. Defendants reserve the right to add additional defenses as they become known during the course of this action, and hereby specifically reserve the right to amend their Answer to assert such defenses.

Dated: April 28, 2008

# CERVANTES & ASSOCIATES ENTERTAINMENT LAW

By

LISA A. CERVANTES  
Attorneys for Defendants  
LESLIE A. CABEZAS and  
MANUEL E. CABEZAS,  
dba ANANDA CENTER

1  
2 **PROOF OF SERVICE BY EMAIL AND FACSIMILE**  
3

4 STATE OF CALIFORNIA: COUNTY OF LOS ANGELES  
5

6 I, the undersigned, declare that I am over the age of 18 and not a party to this case, I am employed  
7 in or am a resident of the County of Los Angeles, California where the service occurs and my  
8 business address is 1039 26<sup>th</sup> Street, Santa Monica CA 90403.

9 I further declare that on April 28, 2008, I filed with the above-referenced Court, and on April 28,  
10 2008, I caused the following documents to be sent by facsimile transmission:

11 **DEFENDANTS LESLIE A. CABEZAS AND MANUEL E. CABEZAS  
12 dba ANANDA CENTER's ANSWER TO PLAINTIFF'S COMPLAINT**

13 from Santa Monica, California to the parties' attorneys of record listed below:

14 TRACY EVANS-MOYER, ESQ.

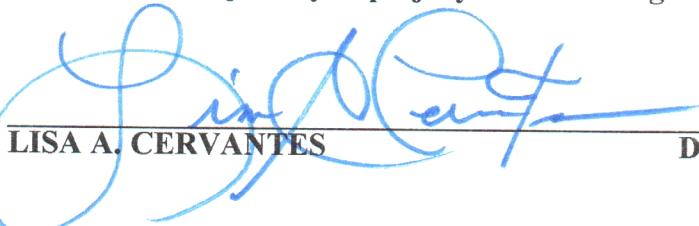
15 McGuire Woods, LLP  
1800 Century Park East, 8<sup>th</sup> Floor  
16 Los Angeles, California 90064

17 Facsimile: (310) 315-8210

18 E-mail: tmoyer@mcguirewoods.com

19 Attorneys for Plaintiff  
20 IHHR HOSPITALITY PRIVATE LIMITED

21 I declare under penalty of perjury that the foregoing is true and correct.  
22

23   
24 LISA A. CERVANTES

25 Dated: April 28, 2008  
26  
27  
28